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SUBJECT: PRESIDENT'S RULE DECLARED IN BIHAR

REF: A) NEW DELHI 1519, B) NEW DELHI 1304

1. (U) SUMMARY. On March 6 Governor Buta Singh concluded that no party or coalition had the numbers to govern in Bihar, and recommended President's Rule. President A.P.J. Abdul Kalam accepted the recommendation and imposed President's Rule on March 7. This marks the end - for now at least -- of Lalu Prasad Yadav's 15 years as the ruling power in Bihar. The "kingmaker" could become Ram Vilas Paswan, whose 29 Lok Janashakti Party (LJP) seats could have given a governing majority to either of the main contending coalitions - except that he had forsworn them both. The elected Members of the Legislative Assembly (MLAs) receive no pay, perks or power when the Assembly is not formed, providing a strong incentive to move toward a quick compromise. Most observers are predicting that one side or the other will lure the LJP into its camp in the near future, but an extended President's Rule of six months or beyond remains a possibility. END SUMMARY.

2. (U) As the deadline of March 6 for the formation of popular government in Bihar expired, and having exhausted all efforts by every political combination to form the government, Governor Buta Singh recommended the imposition of President's Rule. At the cabinet's behest, President Abdul Kalam promulgated Article 356 of the Constitution the evening of March 7 imposing President's Rule in Bihar. This means that Governor Singh becomes the Chief Administrator of the state with the help of advisors nominated by the Center, while the senior civil servants run their respective ministries under the overall guidance of the Chief Secretary. This continues until a majority of the elected MLAs approach the Governor asking to form the government, or until a new election is - hopefully - able to produce a governing majority. President's Rule can be imposed for a maximum period of six months from the date of its promulgation. If need be, it can be extended for another six months, upon ratification by both the Houses of Parliament. During this period, state budgetary proposals will be passed by the Parliament in New Delhi in the absence of a duly constituted State Assembly.

3. (U) With a total of 243 seats in the Bihar State Assembly, 122 MLAs constitute a governing majority. In the February elections, Lalu's Rastriya Janata Dal (RJD) won the most seats with 75; in alliance with the Congress and the "secular" Left the United Progressive Alliance (UPA) total comes to 99. The National Democratic Alliance (NDA) total comes to 92 (Bharatiya Janata Party (BJP) - 37 and Janata Dal (United) (JDU) -- 55). This placed Paswan with his 29 MLAs in the position of kingmaker. With him, the UPA could govern outright, or the NDA could entice a few independent MLA's to achieve a majority. Paswan's LJP had been part of the NDA in the past, but broke away in April 2002 following the communal violence that broke out in the wake of the Godhra train fire, and Paswan has promised his Muslim constituents that he would join no coalition that includes the BJP. Paswan's LJP currently is a part of the UPA coalition at the Center and he is himself the Union Minister for Chemicals and Fertilizers and Steel. However, at the state level he is a bitter rival of Lalu - made more bitter when Lalu took the Railways Ministry that Paswan coveted - and he has sworn to join no alliance that includes the RJD. Therefore, Paswan is a kingmaker who has tied his own hands behind his back. Lalu, by contrast, is out of the Chief Minister's seat that he or his wife, Rabri Devi, have held almost continuously for fifteen years.

4. (SBU) For the elected MLAs, the lack of a constituted Assembly has serious consequences. They receive neither pay nor perks and enjoy little of the power and status of their office. As such, the MLAs have a powerful personal incentive to reach a compromise, and to do so quickly. Most observers we have spoken to believe that some arrangement will be worked out, probably in as little as a month's time.

5. (SBU) Several avenues are possible. One would have Paswan joining the NDA, but promoting a Muslim candidate as Bihar's Chief Minister as a way of defusing his Muslim supporters' opposition to joining with the BJP. (Comment: Former BJP President and current MP Kalraj Mishra, told Delhi Poloff on March 8 that the BJP inner circle had ruled-out a Muslim Chief Minister for Bihar, as it is "unacceptable to the RSS.") Another would have the UPA broker a compromise between its internally warring factions, the RJD and LJP. This would

involve the right mix of flattery and coercion, and finding the right combination of benefits - at the Center and in the state - to satisfy the two leaders. Presumably, for example, one party would get the coveted Railways Ministry at the Center, and the other the Chief Minister's position in Bihar. A third option would involve internal party defections. Since the anti-defection Act was implemented in May 2004, MLAs cannot switch parties freely. However, Schedule X, Part IV of the Indian Constitution allows MLAs and Members of Parliament to defect and merge into another party -- provided that the group of defecting MLAs/MPs constitutes more than two-thirds of the party's strength. Political observers in Bihar suggest that growing frustration could lead 20 or more of Paswan's 29 newly elected LJP MLAs to abandon him, most likely to join the NDA. In such a case, the JDU's Nitish Kumar would be expected become Bihar's next Chief Minister.

16. (SBU) COMMENT. The permutations for a solution are manifold, but the bad blood between the leaders runs quite deep. Paswan, so far at least, seems more determined to keep arch-rival Lalu out of power than to take power himself. His elected members are unlikely to stay with him if he retains this intransigent position for very long. However, Buta Singh is a Congress man and the Congress - having garnered barely ten MLAs at the ballot box -- may prefer to have one of their own governing, even by President's Rule. This could provide Congress a platform on which to begin building from its very weak base in Bihar. All of this suggests that a lot of back-room horse-trading may lie ahead. The greatest likelihood is that an elected government will form within the next two months or so, but the possibility remains for a more extended period of President's Rule instead. END COMMENT.

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